

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed August 9, 2005. At the time of the Office Action, Claims 1-47 were pending in this Application. Applicants amend Claims 1, 13, 24, and 29, cancel Claim 28 without prejudice or disclaimer, and add new Claims 48-68. Applicants respectfully request reconsideration and favorable action in this case. Applicants' amendments, cancellations, and additions have been done to advance prosecution in this case and not to overcome prior art. Applicants respectfully request reconsideration of the pending claims and favorable action in this case.

Consideration of Information Disclosure Statement

Applicants submit an Information Disclosure Statement (IDS) with this Response. Applicants respectfully request the Examiner to review this IDS and to formally indicate that these materials have been considered in the context of the pending prosecution. Applicants suggest the Examiner use a PTO Form 1449 to provide written notification to this effect.

Section 101 Rejections

Claims 33 and 38-47 were rejected by the Examiner under 35 U.S.C. §101 as being directed to non-statutory subject matter. *Office Action*, p. 5. Specifically, the Examiner states that Claims 33 and 38-47 "have no connection to the technological arts." *Office Action*, p. 5. According to the Board of Patent Appeals and Interferences, "there is currently no judicially recognized separate 'technological arts' test to determine patent eligible subject matter under § 101." *Ex parte Lundgren*, 76 U.S.P.Q.2d 1385, 1388 (Bd. Pat. App. & Inter. 2005). The test for eligible statutory subject matter includes determining whether a useful, concrete, and tangible result is produced. *See AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 50 U.S.P.Q.2d 1447 (Fed. Cir. 1999); *State Street Bank & Trust Co. v. Signature Fin. Group, Inc.*, 149 F.3d 1368, 47 U.S.P.Q.2d 1596 (Fed. Cir. 1998). Applicants respectfully submit that Claims 33 and 38-46 produce a useful, concrete, and tangible result. Thus, Applicants respectfully request reconsideration and allowance of Claims 33 and 38-47.

Section 102 Rejections

The Examiner rejects Claims 1, 2, and 4 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,418,419 issued to Robert Scott Nieboer et al. (hereinafter “*Nieboer*”). Applicants respectfully request reconsideration of this rejection of the above-mentioned claims. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); M.P.E.P. §2131.

Applicants respectfully submit that *Nieboer* does not disclose, teach, or suggest, either expressly or inherently, each and every element of Claim 1. For example, *Nieboer* does not disclose, teach, or suggest “a transactional component that facilitates an economic transaction, wherein the economic transaction comprises an acquisition of goods or services from the company, one or more economic transactions representing economic activity; a transactional relay component, communicatively coupled to the transactional component, that facilitates a response to a server system regarding the economic transaction, the response including the identifier for the server system to locate additional information on the customer and to associate the economic activity with the customer.” Instead, *Nieboer* discloses creating an auction market instead of a negotiated market for securities’ transactions. *Col. 1, ll. 36-39*. The transactions may be conditioned upon factors such as the ability to purchase or sell other securities or the actual purchase or sale of other securities. *See Abstract*. Because *Nieboer* fails to disclose, teach, or suggest at least these limitations, Applicants respectfully submit that *Nieboer* cannot anticipate Claims 1, 2, and 4 under § 102(e). Thus, Applicants respectfully request reconsideration and allowance Claims 1, 2, and 4.

Section 103 Rejections

The Examiner rejects Claims 3 and 5-12 under 35 U.S.C. §103(a) as being unpatentable over *Nieboer*. The Examiner further rejects Claims 13-47 under 35 U.S.C. §103(a) as being unpatentable over *Nieboer* in view of *Basic Financial Management*, by John D. Martin, 5th Edition, Prentice Hall Inc., ISBN 0-13-060807-6 (hereinafter “*Martin*”). “To support the conclusion that the claimed invention is directed to obvious subject matter, either

the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” M.P.E.P. §706.02(j) (citing *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985)). Applicants respectfully submit that the Examiner does not present either to support the rejections under 35 U.S.C. §103(a).

Claims 3 and 5-12 incorporate the limitations of their independent Claim 1, which Applicants have shown above to be allowable. Accordingly, Claims 3 and 5-12 are allowable for at least this reason. Additionally, Claims 3 and 5-12 recite additional limitations that are not disclosed, taught, or suggested in the cited references. Accordingly, Applicants request reconsideration and allowance of Claims 3 and 5-12.

Applicants respectfully submit that the combination of *Nieboer* and *Martin* fails to disclose, teach, or suggest each limitation recited in independent Claim 13. For example, the combination does not disclose, teach, or suggest “a transactional reception component that receives information on an economic transaction, wherein the economic transaction comprises an acquisition of goods or services from the company, one or more economic transactions representing economic activity.” Because the combination fails to disclose, teach, or suggest at least these limitations, Applicants respectfully submit that Claim 13 and its dependents are not obvious over *Nieboer* in view of *Martin*. Thus, Applicants respectfully request reconsideration and allowance of independent Claim 13 together with its dependents.

Independent Claim 24 recites certain limitations that for reasons substantially similar to those discussed with reference to Claim 13, the combination of *Nieboer* and *Martin* does not disclose, teach, or suggest. Therefore, Applicants respectfully request reconsideration and allowance of independent Claim 24 together with its dependents.

Applicants respectfully submit that the combination of *Nieboer* and *Martin* fails to disclose, teach, or suggest each limitation recited in Claim 33. For example, the combination does not disclose, teach, or suggest “offering an individual an opportunity to convert the individual's first type of ownership in the entity to the second type of ownership interest based upon predefined criteria.” The Examiner admits that *Nieboer* does not disclose the above limitations and looks to *Martin*. *Office Action*, p. 8. However, *Martin* does not

disclose, teach, or suggest the above limitations either. *Martin* only discloses generally that a convertible security is a preferred stock that can be exchanged for common stock. *Martin*, p. 743. Because the combination fails to disclose, teach, or suggest at least these limitations, Applicants respectfully submit that the combination cannot anticipate Claim 33 under 35 U.S.C. §103(a). Thus, Applicants respectfully request reconsideration and allowance of independent Claim 33 along with its dependents.

New Claims

Applicants add new Claims 48-68, which are fully supported by the specification of the present Application as originally filed. Claims 48-50 incorporate the limitations of their independent Claim 1, which Applicants have shown above to be allowable. Accordingly, Claims 48-50 are allowable for at least this reason. Additionally, Claims 48-50 recite additional limitations that are not disclosed, taught, or suggested in the cited references. Accordingly, Applicants request consideration and allowance of Claims 48-50.

Claim 50 recites a method comprising “offering the user an incentive according to a predefined criteria, wherein the predefined criteria is based on the economic activity of the user.” *Nieboer* and *Martin*, alone or in combination, do not disclose, teach, or suggest such a method that includes “offering the user an incentive according to a predefined criteria, wherein the predefined criteria is based on the economic activity of the user.” Accordingly, Applicants request consideration and allowance of new Claim 50 along with its dependents, Claims 51-57.

Independent Claims 58 and 61 recite certain limitations that for reasons substantially similar to those discussed with reference to Claim 50, *Nieboer* and *Martin*, alone or in combination, do not disclose, teach, or suggest. Therefore, Applicants respectfully request consideration and allowance of independent Claims 58 and 61, along with their dependents.

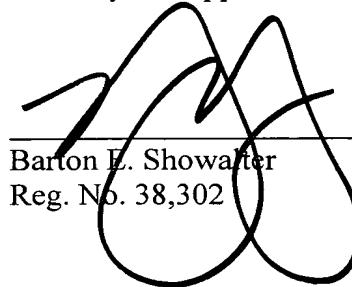
CONCLUSION

Applicants have now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of the pending claims.

Applicants submit herewith a check in the amount of \$120.00 to cover the one-month extension fee, a check in the amount of \$1,600.00 to cover the fee for the additional new claims, and a check in the amount of \$180.00 to cover the cost of the IDS filing fee. If these fees are not correct, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicants invite the Examiner to contact its attorney, Barton E. Showalter, at (214) 953-6509.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Barton E. Showalter
Reg. No. 38,302

Date: December 9, 2005

SEND CORRESPONDENCE TO:

BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**